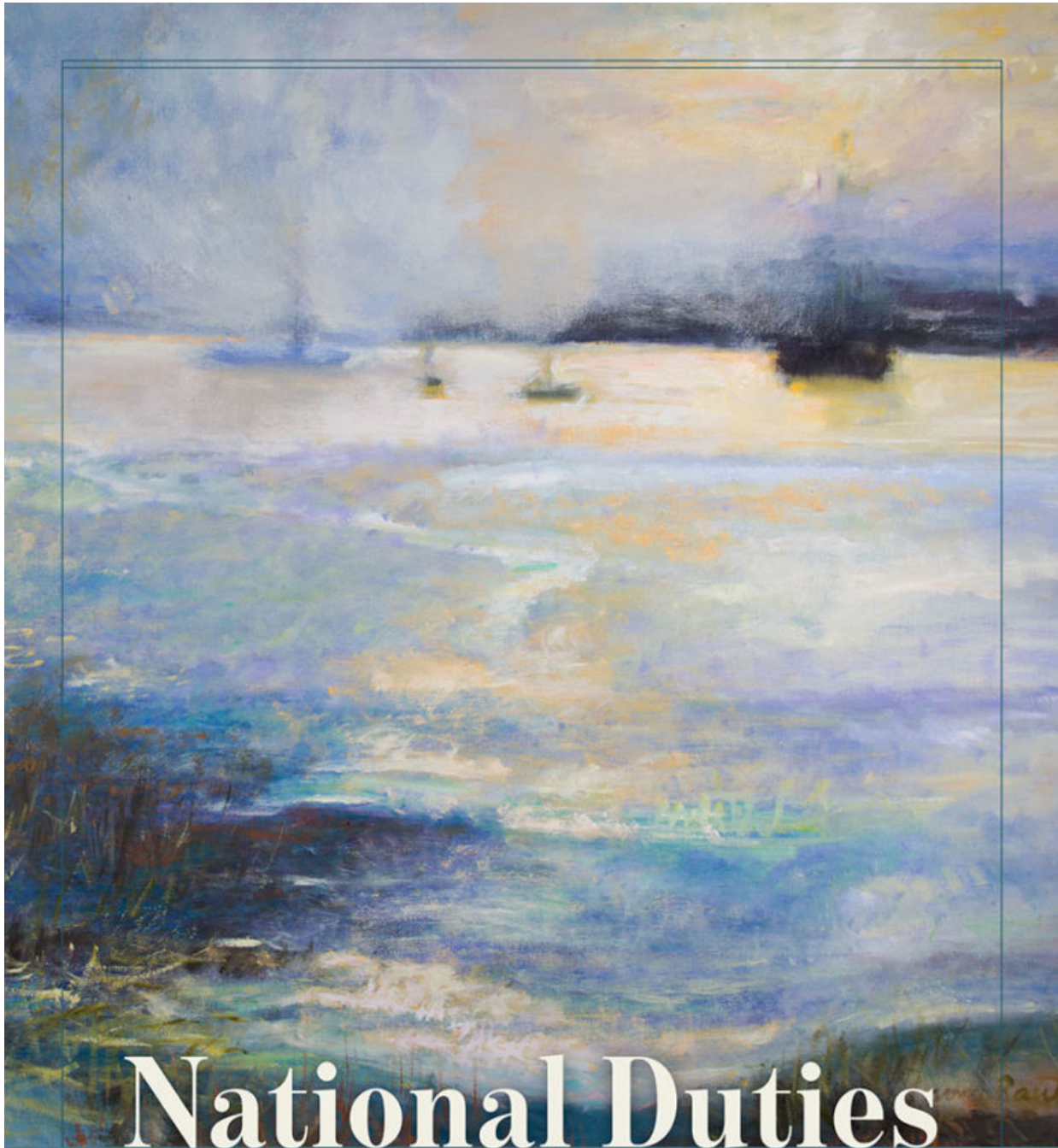


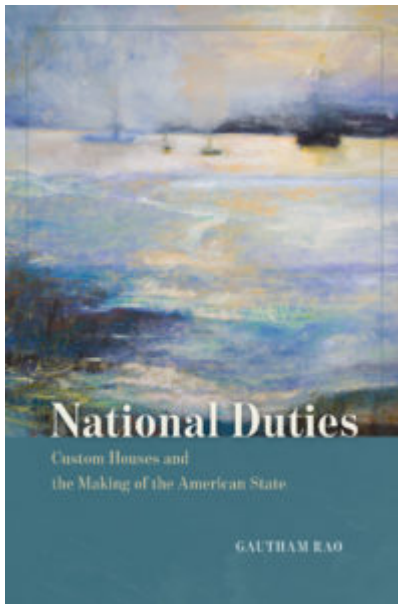
# According to Custom: Building a Nation on Negotiation



# National Duties

Custom Houses and  
the Making of the American State

GAUTHAM RAO



Gautham Rao, *National Duties: Custom Houses and the Making of the American State*. Chicago: University of Chicago Press, 2016. 272 pp., \$45.

Founding a nation was one thing. Footing the bill was a different matter entirely. Gautham Rao's brilliant *National Duties: Custom Houses and the Making of the American State* analyzes America's fiscal founding—its precedent and its product—through its most effective means of income: the custom house. George Washington and his administration—especially Treasury Secretary Alexander Hamilton—knew that the federal government would have to tread lightly concerning matters of taxation given that the Revolution was inspired in large part by questions over Parliament's right to tax. Hamilton found the solution in tariffs, a method of indirect taxation that would not likely draw the ire of tax-phobic revolutionaries. However, customs officials were tasked with implementing on the docks the laws in the rough-and-tumble world of Atlantic capitalism. Indeed, it is on the waterfront that Rao's argument really unfolds. He asserts that in practice, customs officials frequently negotiated federal laws with local merchants and sailors: "They decided which laws to apply, and which laws to ignore; when to make an example out of a lawbreaker, and when to sweep transgressions under the rug. Most often, they used their discretion to align federal revenue and regulatory law with local commercial communities' expectations about how governance should work" (12). Surprisingly, these waterfront negotiations funneled an abundance of wealth into the Treasury. However, by the War of 1812, it became apparent that this system was difficult to restrict during wartime and potentially dangerous for American diplomacy in general. Ultimately, it disappeared by the end of Andrew Jackson's presidency.

Rao structures *National Duties* chronologically, prefacing each section with an anecdote about a customs official dealing with the realities of his position. The first section details the colonial precedents of tariff negotiations. In the first half of the eighteenth century, the British Empire exercised a policy that scholars have often termed "salutary neglect": so long as British colonies offered their loyalty to the mother country, imperial governance—including

tariff enforcement—remained lax. In fact, it was actually beneficial to allow colonial merchants to expand into French and Spanish markets, undercutting Britain's competition without resorting to war. With the beginning of the Seven Years' War in 1756, however, Britain tightened its enforcement of mercantile policy, restricting the colonial tradition of negotiation. Thus, the American Revolution was not an outright rejection of Britain's right to tax; rather, it was an outcry against a perceived violation of colonial rights to negotiation.

The second section details the United States' implementation of its own tariff system in the 1790s. Both Washington and Hamilton were keenly aware of the risks of taxing too heavily. However, Hamilton's well-documented Anglophilia inspired him to look to Britain's financial model for the new United States. After pushing a series of bills through Congress to establish the custom house system, Washington appointed more than 130 officials to enforce the laws. However, as Rao illustrates, these men were selected not for their party loyalty, but for their standing in the community, with the expectation that they would be better able to inspire the confidence of their neighbors. This worked splendidly, and "by 1793 the custom houses were the federal government's sole reliable and significant stream of revenue" (75). Much to Hamilton's initial chagrin, a side effect of this success was waterfront negotiation: customs officials might take a captain at his word on a suspicious manifest, payments might be indefinitely postponed, and violations might be prosecuted only selectively. Failing these concessions, non-compliant customs officials might find themselves harassed, sued, and even assaulted should they refuse to work with their neighbors. It was, it seemed, in everyone's best interests to maintain the status quo.

As Rao notes in the third section, the system's success in the 1790s would prove its undoing. As the Napoleonic Wars engulfed Europe, it became increasingly dangerous for American merchants to violate agreements with France and Britain. Even when President Thomas Jefferson signed legislation to stop illicit trade, "customs officials were simply unable to muster enough authority" to enforce them (104). Despite his reputation as a de-centralizer, Jefferson cracked down on these violations at the docks, as he feared that unregulated trade with either France or Britain could provoke the belligerents and drag the United States into a war. The failure of the 1808 Embargo Act and the subsequent War of 1812 under James Madison proved Jefferson right. Many customs officials largely ignored smuggling during the embargo and war—and others actively aided renegade merchants. It grew so problematic that Madison deployed the navy during the War of 1812 to stop American smugglers. Rao considers this period the turning point for waterfront negotiations, writing, "This arrangement of power that had enabled empires past now seemed poised to enfeeble the republic" (162). The federal government was tired of a rebellious waterfront, and they would soon put a stop to it.

Rao's final section details the government crackdown that put an end to the old ways. As a new generation of politicians committed to nationalist financial policies emerged after the War of 1812, James Madison's administration began

the daunting task of reforming custom houses. The Panic of 1819 saw the government take stock of its assets, and it became clear that customs officials had intentionally overlooked millions of dollars in unpaid tariffs. Understandably, the federal government was not pleased, and a renewed commitment to prosecutions followed. Further, the return of relative peace to the Atlantic meant that merchants had less to gain from violating laws, so they could not rally widespread support from disgruntled sailors. These reforms were completed by the end of Andrew Jackson's presidency, and the waterfront negotiations that had defined Atlantic trade for over a century disappeared with it.

Rao's methodology reflects his difficult task of connecting federal policy with its implementation. The core of his research comes from custom house records at the National Archives. Aside from (impressive) statistical analysis, Rao thoroughly explores the personal relationship between customs officials and their waterborne neighbors. Further, his footnotes evidence a thorough grasp of the scholarship on empire, nation, finance, and capitalism during the period in question.

This book joins the voluminous ranks of scholarship on cultural economy in the early republic. Rao's story is less about federal financial policy than about how these laws worked on a daily basis. What develops is a story about the culture of Atlantic capitalism on the waterfront. Indeed, the text is populated by a wide cast of characters: the Hamiltons and Jeffersons are there, but so are shady merchants, disgruntled sailors, and mobs to persuade overly zealous officials to bend to local pressure. However, this book is primarily about the customs officials themselves. They are portrayed neither as faceless extensions of the government nor as sycophants who did not dare refuse local demands. While there were several different kinds of people who filled these offices, most were pragmatists who understood the law but also fully grasped the situation on the waterfront. One such example that Rao uses is James McCulloch. Initially selected by Jefferson for his post as a customs official in Baltimore due to his party loyalty, McCulloch came to sympathize with the local community during the financially disastrous Embargo Act of 1808, allowing illicit trade to leave the struggling port. When Treasury Secretary Albert Gallatin confronted the wavering official, he was doubtless dumbfounded when he received McCulloch's reply. While McCulloch knew the rules, he described someone in his position as "generally connected with those around him by common if not special ties . . . and liable to bias from confidence in acquaintances accompanied with good will" (quoted in Rao, 102). In other words, McCulloch told Gallatin that he knew the law. He simply did not care. Trade would continue to flow.

It is difficult to overstate the quality of Rao's work in *National Duties*. Well-researched, well-written, and well-executed, this book offers a new look into the dialectic of fiscal nation building. Compromise was not restricted to the legislative halls; it was an integral part of life on the waterfront. Further, this work will contribute to a sizeable body of literature on the culture of capitalism in the young United States. Refreshingly, this book looks

also to the Federalist years of the 1790s as an important part of this development. Since Charles Sellers' controversial thesis on the "market revolution" in 1991, scholars have been inclined to look to post-War of 1812 America for the rise of markets. Without rejecting the validity of this focus on the 1800s, scholarship can only benefit from looking to eighteenth-century precedents for later economic developments. *National Duties* is an important work in the study of capitalism and nation-building in the early republic. Rao reminds the reader that, contrary to a teleological view of history, both of these processes were open to negotiation in that era.

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